

**REMARKS**

Claims 1, 3, 4, 6-7, 9, 12-13, 16-18, 21-24, 27-29, 31, 55, and 57-63 are pending, with claims 1, 4, 22, 55, 62, and 63 being independent. Claim 62 is new and derives support at least from Figs. 1-10 and paragraphs 26-30. No new matter has been introduced.

**Claim Rejections**

Claims 1, 3, 6, 7, 9, 12, 13, 16-18, 21-24, 27-29, 31, 55, 57-60, and 62 have been rejected as being unpatentable under 35 USC 103 over Mollenauer in view of Beyer et al and Zocher and further in view of Yoon. Applicant requests withdrawal of this rejection for the following reasons.

Independent claim 1 recites a suturing device including a handle extending along an axial direction, an elongated shaft separately attached to a distal end of the handle, and a sharpened tip separately attached to a distal end of the elongated shaft. The sharpened tip includes an exposed, tapered, and closed opening that is continuously tapered along a length of the opening from a distal closed edge to a proximal closed edge and configured to trap a suture at a selected point within the opening and permit the suture to pass lengthwise through the opening.

Independent claim 22 recites a suturing device including a handle extending along an axial direction, an elongated shaft separately attached to a distal end of the handle at a proximal end of the shaft, and a detachable needle at a distal end of the shaft. The needle has a side closed through hole into which a suture is attached and the closed through hole is continuously tapered along a length of the through hole from a distal closed edge to a proximal closed edge.

Independent claim 55 recites a suturing device including a handle extending along an axial direction, an elongated shaft separately attached to a distal end of the handle, a sharpened tip separately attached a distal end of the elongated shaft, and a suture coupled with the sharpened tip. The sharpened tip has a piercing portion configured to pierce tissue during a suturing procedure and has an exposed, tapered, and closed opening, where the opening is continuously tapered along a length of the opening from a distal closed edge to a proximal closed edge. The suture has a suture portion extending outward from the sharpened tip to permit the suture to be grasped and manipulated relative to the sharpened tip, the suture portion disposed to be carried by the sharpened tip through tissue which has been pierced by the piercing portion. The opening is configured to permit the suture to pass lengthwise through the opening.

Independent claim 62 recites a three-piece suturing device including a handle extending along an axial direction, an elongated shaft separately attached to a distal end of the handle, and a sharpened tip separately attached to a distal end of the elongated shaft. The sharpened tip includes an exposed, tapered, and closed opening that is continuously tapered along a length of the opening from a distal closed edge to a proximal closed edge and configured to trap a suture at a selected point within the opening and permit the suture to pass lengthwise through the opening.

Neither Mollenauer, Beyer, Zocher, Yoon nor any proper combination of the four describes or suggests a handle, a shaft separately attached to the handle, and a sharpened tip separately attached to the shaft, as recited in claims 1, 22, 55, and 62. The Examiner's conclusion that it would have been obvious, in view of Yoon, to modify the device of Mollenauer in view of Beyer and Zocher, so that the shaft was separately attached to the handle and the sharpened tip was separately attached to the shaft, is based entirely on an improper obvious to try rationale. In essence, the Examiner is arguing that it would have been obvious to try to make and use the inventions claimed in claims 1, 22, 55, and 62 by combining Yoon with the other above references, even though Yoon gives only general guidance as to the particular form of the inventions and how to achieve them.

Accordingly, for at least these reasons, claims 1, 22, 55, and 62 are allowable over Mollenauer. Claims 3, 6, 7, 9, 12, 13, 16-18, 21, 23-24, 27-29, 31, and 57-60 depend from claims 1, 22, and 55 and are therefore allowable for at least the reasons that claims 1, 22, and 55 are allowable and for containing allowable subject matter in their own right.

Claim 4 has been rejected as being unpatentable over Mollenauer in view of Orthwine et al and Leighton and further in view of Yoon. Applicant requests withdrawal of this rejection for the following reasons.

Claim 4 recites a suturing device including a handle extending along an axial direction, an elongated shaft separately attached to a distal end of the handle, and a sharpened tip separately attached to a distal end of the elongated shaft. The sharpened tip includes an exposed and closed opening that includes an open central axial region in which the central axial region is narrower than proximal and distal edge regions along a direction perpendicular to the axial : direction to trap a suture at a selected point within the opening and to permit the suture to pass lengthwise through the opening.

Applicant requests withdrawal of the rejection of claim 4 for the same reason stated above for claims 1, 22, 55, and 62, namely, because neither Mollenauer, Orthwine, Leighton, Yoon, nor any proper combination of the four describe or suggest a suturing device including a handle, an elongated shaft separately attached to a distal end of the handle, and a sharpened tip separately attached to a distal end of the shaft.

New independent claim 63 is similar to claim 1, albeit further specifying that the shaft includes a straight configuration. Neither Mollenauer alone nor a proper combination of Mollenauer and any of the references stated above describe or suggest a suturing device including a shaft having a straight configuration. Every embodiment described and shown in Mollenauer includes a handle and a coiled projection attached to the handle. The coiled projection has a pointed distal end. The Examiner has consistently equated the coiled projection with the pointed distal end to the elongated shaft and the sharpened tip of Applicants' device.

As described in Mollenauer (Col. 1, lines 43-64 and Col. 6, lines 5-14), the purpose for the handle and coiled projection is to allow for positioning of a length of suture proximate to a surgical location and to form passes of the suture through the body tissue with a single instrument. The Mollenauer device is especially made for use in deep incision surgery and laparoscopic surgery. In use, the handle is rotated several times so that the tip of the coil penetrates and passes through the tissue while simultaneously pulling the suture through the tissue each time the tip is passed through the tissue. Having a shaft with a straight configuration, rather than a coiled configuration similar to Mollenauer's device, for obvious reasons, would not allow for use of the device in the above-stated manner and therefore achievement of the above stated purpose. Therefore, it would not have been obvious to modify the device of Mollenauer so that the shaft had a straight configuration, rather than a coiled configuration. Therefore, claim 63 is in condition for allowance.

Applicant does not acquiesce to the characterizations of the art. For brevity and to advance prosecution, however, Applicant may have not addressed all characterizations of the art, but reserve the right to do so in further prosecution of this or a subsequent application.

The absence of an explicit response by the Applicant to any of the Examiner positions does not constitute a concession of the Examiner's positions. The fact that Applicant's comments have focused on particular arguments does not constitute a concession that there are

not other good arguments for patentability of the claims. All of the dependent claims are patentable for at least the reasons given with respect to the claims on which they depend.

Please apply any charges or credits to Deposit Account No. 192563.

Respectfully submitted,

Date: \_\_\_\_\_

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